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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,736	07/26/2001	Rashid A. Attar	010032B1	1213
23696	7590	06/13/2006		EXAMINER
QUALCOMM, INC. 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			LY, NGHI H	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/915,736	ATTAR ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nghi H. Ly	2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires 3 months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: 10-15, 25 and 26.  
 Claim(s) rejected: 1-9, 16-24 and 27-98.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
 12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
 13.  Other: \_\_\_\_\_.

  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**

**DETAILED ACTION*****Response to Arguments***

1. Applicant's arguments filed 05/30/06 have been fully considered but they are not persuasive.

On pages 25 and 26 of applicant's remarks, applicant argues that "*Dufour merely states that signal strength may be measured at either the base station or the mobile terminal (see col. 6, lines 12-28). Dufour does not disclose, in the cited section or elsewhere, determining a forward link quality metric and a quality related to a reverse link quality metric at the mobile terminal. As such, the cited references, alone or in combination, fail to teach or suggest determining a forward link quality metric and a quality related to a reverse link quality metric at the subscriber station, as recited in independent claim 1, 16 or 31".*

The examiner, however, disagrees. Dufour does indeed teach signal strength may be measured at the mobile terminal (see column 6, lines 12-28, see "that signal strength may be measured at either the base station or the mobile terminal"). Dufour does indeed teach determining a forward link quality metric and a quality related to a reverse link quality metric at the mobile terminal (see column 6, lines 12-28, see "on the up-link or down-link". Dufour's "up-link" reads on applicant's "a reverse link" and Dufour's "down-link" read on applicant's "a forward link", and see "that signal strength may be measured at either the base station or the mobile terminal"). Therefore, the cited reference does indeed teach the claimed limitation as recited in independent claim 1, 16 or 31". In addition, applicant's specification page 5, [1012], disclose that "The

*quality metric of a forward link for each sector in the remote station's list is determined by measuring a signal-to-noise-and-interference-ratio of the forward link" and Dufour's "signal strength" reads on applicant's "signal-to-noise-and-interference-ratio" (see Dufour, column 6, lines 12-28). Furthermore, applicant's claim 1, 16 or 31 merely recites "determining" and "a quality". However, claim 1, 16 or 31 fails to further define how determining or what a quality is. Therefore, Dufour does indeed teach applicant's claimed limitation with a broadest reasonable interpretation. In addition, applicant's attention is directed to the teaching of Dufour in claims 1, 16 and 31 in the previous Office action and **dictionary.com** (or English dictionary) for the definition of the word "**determining**".*

For the above reasons, the examiner believes that the rejections to claims are proper.

### ***Conclusion***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (571) 272-7911. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nghi H. Ly

A handwritten signature in black ink, appearing to read "Nghi H. Ly".